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15 **UNITED STATES DISTRICT COURT**  
16 **SOUTHERN DISTRICT OF CALIFORNIA**

17 JANINE BOUEY,  
18  
19 Plaintiff,  
20  
21 v.  
22 UNITED STATES OF AMERICA and  
23 CBP OFFICER JANE DOE.  
24  
25 Defendants.

Case No.  
**COMPLAINT FOR DAMAGES AND  
DEMAND FOR JURY TRIAL**  
1. Negligence (FTCA)  
2. Battery (FTCA)  
3. Intentional Infliction of Emotional  
Distress (FTCA)  
4. Bane Act – Cal. Civ. Code § 52.1 /  
Article I, Section 13 of the  
California Constitution (FTCA)  
5. Fourth Amendment Unreasonable  
Force / Invasion of Bodily Integrity  
(*Bivens*)

26 COMES NOW Plaintiff, JANINE BOUEY (hereinafter referred to as “Ms. Bouey”  
27 or “Plaintiff”), for causes of action against defendants UNITED STATES OF AMERICA  
28 (“United States”) and CBP OFFICER JANE DOE (“Defendant Doe”), whose true name  
and identity is currently unknown, and herein alleges, based on information and belief:



1 asserts against it. At all relevant times, Defendant United States was the government  
2 entity that controlled, directed, and otherwise oversaw United States Customs and Border  
3 Protection (“CBP”) and employed the law enforcement officers whose true names are  
4 unknown but are referred to in this Complaint as CBP Officer Jane Doe (“Defendant  
5 Doe”), CBP Officer 1 and/or La Pierre, CBP Officer 2, and CBP Officer 3 and other  
6 involved CBP officers, each of whom were acting under color of law and within the  
7 course and scope of their employment with respect to the conduct about which Plaintiff  
8 complains.

### 9 **FACTS**

10 8. On June 16, 2020, Ms. Bouey was a 60-year-old retired Los Angeles Police  
11 Department officer and U.S. Army veteran residing at her home in Los Angeles. That  
12 morning, she travelled to a dental appointment in Tijuana, Baja California, Mexico and  
13 then crossed back into the United States via the pedestrian lanes at the Otay Mesa Port of  
14 Entry (“OMPOE”).

15 9. While she waited in line to reach the pedestrian primary inspection booth,  
16 Ms. Bouey was approached by a male African-American United States Customs and  
17 Border Protection (“CBP”) officer with the last name La Pierre or Le Pierre (hereinafter  
18 “CBP Officer 1” or “La Pierre”) who requested her passport and asked her questions about  
19 where she had been in Mexico and where she was heading in the U.S. Ms. Bouey  
20 responded that she had been at her dentist’s office that morning and was returning to her  
21 home in Los Angeles.

22 10. La Pierre’s tone was flirtatious and pushy, and he pressed Ms. Bouey to give  
23 him her home address. Ms. Bouey refused and told him that she did not think it was  
24 necessary for her to give him her home address. La Pierre responded by pulling Ms.  
25 Bouey out of line and taking her into the main building at the OMPOE.

26 11. After entering the building, Ms. Bouey was made to spread her legs with her  
27 hands against the wall as a female Caucasian CBP officer (hereinafter, “CBP OFFICER  
28 JANE DOE” or “Defendant Doe”) intentionally sexually groped Ms. Bouey by using her

1 fingers to feel and intentionally penetrate Ms. Bouey's genitalia over her clothes.

2 12. Ms. Bouey was then put in a holding pen with other people.

3 13. Ms. Bouey, who is African-American, was asked about her citizenship  
4 multiple times by a CBP officer holding her U.S. passport, and Ms. Bouey repeated  
5 several times that she was a U.S. citizen. She also told the CBP officer that if they ran  
6 her information they could confirm that she was a retired LAPD officer. Ms. Bouey heard  
7 someone say that they did "not have to (expletive) run anyone."

8 14. Ms. Bouey observed La Pierre talking to a CBP dog handler ("CBP Officer  
9 2") with his dog. CBP Officer 2 brought the dog into the pen and Ms. Bouey was forced  
10 to turn around and spread her legs again.

11 15. Ms. Bouey suddenly felt the dog's head pushed into her buttocks by CBP  
12 Officer 2. When she turned her head to see what was happening, someone yelled at Ms.  
13 Bouey to turn around. While this was going on, Ms. Bouey saw La Pierre glaring at her.

14 16. Ms. Bouey was taken into another part of the building and Defendant Doe  
15 then, without provocation or any lawful justification, intentionally sexually groped Ms.  
16 Bouey by grabbing Ms. Bouey's crotch from behind and fondling and intentionally  
17 penetrating her genitalia again.

18 17. Ms. Bouey was then handcuffed and shackled to a bench. Several times she  
19 asked what she was being arrested for and she asked to call an attorney, but her purse had  
20 been taken into a back room and she was not allowed to call an attorney.

21 18. Defendant Doe and another female CBP officer (hereinafter, "CBP Officer  
22 3") unshackled Ms. Bouey from the bench and took her into another room. They told Ms.  
23 Bouey she had to strip down to her bra and underwear.

24 19. Before complying, Ms. Bouey noticed that the door to the room was propped  
25 open a few inches with an object on the floor. Ms. Bouey told Defendant Doe and CBP  
26 Officer 3 that she did not feel comfortable disrobing with the door open because she could  
27 hear people outside the door.

28 20. One of the female CBP officers moved toward the door but stopped abruptly

1 when it appeared as if she made eye contact with someone outside the partially opened  
2 door. Without closing the door, Defendant Doe and CBP Officer 3 forced Ms. Bouey to  
3 completely disrobe, including her underwear.

4 21. Defendant Doe and CBP Officer 3 then required Ms. Bouey to turn around,  
5 bend over and squat, while one of the officers shined a flashlight into her vaginal area  
6 from behind.

7 22. Ms. Bouey was forced by Defendant Doe and CBP Officer 3 to continue to  
8 bend over and squat several times before finally being allowed to put her clothes back on.

9 23. Trembling, terrified, humiliated, and degraded, Ms. Bouey was handcuffed  
10 and shackled to the bench again.

11 24. Another younger African-American officer arrived and instructed a CBP  
12 officer to uncuff Ms. Bouey, and she was told she was being let go.

13 25. Ms. Bouey asked the younger African-American officer how he would feel  
14 if his mother had been subjected to the abuse that she had just endured for the last three  
15 hours. He responded, "These things happen."

16 26. Ms. Bouey, a 60-year-old African-American United States Citizen, resident  
17 of Southern California, U.S. Army veteran, and retired Los Angeles Police Department  
18 officer, did not have any drugs, pain medication, contraband, or arrest warrants that day.

19 27. Ms. Bouey was the person in the photos of her valid U.S. passport, her valid  
20 U.S. passport card, and her valid California driver's license, all of which she had on her  
21 person or in her purse. Also in her purse was one of her recent Police & Fire Pension pay  
22 stubs, as well as paperwork showing she had been at the dentist in Tijuana for a root canal  
23 that morning.

24 28. Defendant Doe, CBP Officer 1, CBP Officer 2, and CBP Officer 3, and other  
25 involved CBP officers had no reasonable basis to sexually assault, humiliate, and degrade  
26 Ms. Bouey, or to strip her of her liberty and dignity for no other reason than that "these  
27 things happen."  
28

1 **DAMAGES**

2 29. As a direct and proximate result of the aforesaid acts, omissions, and  
3 decisions of Defendant Doe, CBP Officer 1, CBP Officer 2, CBP Officer 3, and other  
4 involved CBP officers, Plaintiff suffered and/or will continue to suffer great mental and  
5 physical pain, suffering, anguish, fright, nervousness, anxiety, shock, humiliation,  
6 indignity, embarrassment, and apprehension, which have caused Plaintiff to sustain  
7 damages in a sum to be determined at trial.

8 30. Ms. Bouey suffered severe emotional distress as a result of the actions of  
9 Defendant Doe, CBP Officer 1, CBP Officer 2, CBP Officer 3, and other involved CBP  
10 officers. Ms. Bouey cannot help but frequently relive being sexually assaulted,  
11 humiliated, and degraded as a direct and proximate result of the conduct of Defendant  
12 Doe, CBP Officer 1, CBP Officer 2, CBP Officer 3, and other involved CBP officers. She  
13 suffers severe anxiety and ongoing psychological trauma as a result of their actions.

14 **FIRST CAUSE OF ACTION**

15 **Negligence (FTCA)**

16 **(against Defendant United States of America)**

17 31. Plaintiff repeats and re-alleges each allegation contained in paragraphs 1  
18 through 30 of this Complaint.

19 32. Defendant United States, by and through Defendant Doe, CBP Officer 1,  
20 CBP Officer 2, CBP Officer 3, and other involved CBP officers, had a duty to use  
21 reasonable care in interacting with a citizen, had a duty to use reasonable care in  
22 performing a search, had a duty to use reasonable care in performing a detention, and had  
23 a duty to refrain from using any force that was not objectively reasonable under the totality  
24 of the circumstances. Defendant United States, by and through its employees, had a duty  
25 to avoid needlessly and negligently harming Plaintiff during an arrest.

26 33. Defendant United States, by and through Defendant Doe, CBP Officer 1,  
27 CBP Officer 2, CBP Officer 3, and other involved CBP officers, breached all these duties  
28 by the conduct alleged above in paragraphs 1 through 29 of this Complaint.



1 39. Plaintiff repeats and re-alleges each allegation contained in paragraphs 1  
2 through 38 of this Complaint.

3 40. By the acts alleged above, Defendant United States, by and through  
4 Defendant Doe, CBP Officer 1, CBP Officer 2, CBP Officer 3, and other involved CBP  
5 officers, engaged in extreme and outrageous conduct that transcended the bounds of  
6 human decency. For example, Defendant Doe intentionally grabbed Plaintiff's crotch and  
7 fondled and penetrated her genitalia without consent or justification.

8 41. Defendant United States, by and through Defendant Doe, CBP Officer 1,  
9 CBP Officer 2, CBP Officer 3, and other involved CBP officers, intended to cause, and  
10 did cause, Plaintiff to experience severe emotional distress and each acted with a reckless  
11 disregard of the probability that Plaintiff would suffer severe emotional distress.

12 42. Defendant Doe, CBP Officer 1, CBP Officer 2, CBP Officer 3, and other  
13 involved CBP officers acted in their official capacity and in the scope of their employment  
14 as CBP officers of Defendant United States.

15 43. Plaintiff suffered severe emotional distress, and the conduct of Defendant  
16 United States, by and through Defendant Doe, CBP Officer 1, CBP Officer 2, CBP Officer  
17 3, and other involved CBP officers, was a substantial factor in causing Plaintiff's severe  
18 emotional distress, for which Plaintiff is entitled to monetary relief pursuant to the Federal  
19 Tort Claims Act, 28 U.S.C. § 2671 *et seq.*

#### 20 **FOURTH CAUSE OF ACTION**

#### 21 **Bane Act – California Civil Code § 52.1 / Article I, Section 13 of the California** 22 **Constitution (FTCA)**

#### 23 **(against Defendant United States of America)**

24 44. Plaintiff repeats and re-alleges each allegation contained in paragraphs 1  
25 through 43 of this Complaint.

26 45. Defendant United States, by and through Defendant Doe's conduct  
27 repeatedly and intentionally sexually groping Plaintiff by grabbing Plaintiff's crotch and  
28 fondling and penetrating her genitalia without consent or justification, interfered by



1 threats, intimidation, and coercion, and attempted to interfere by threats, intimidation, and  
2 coercion, with the exercise and enjoyment of Plaintiff's rights as secured by Article I,  
3 Section 13 of the California Constitution.

4 46. Defendant United States, by and through Defendant Doe's conduct described  
5 above, intended to deprive Plaintiff of her enjoyment of the rights and interests protected  
6 by the California Constitution.

7 47. Defendant Doe, and thereby Defendant United States, acted in her official  
8 capacity and in the scope of her employment as a CBP officer of Defendant United States.

9 48. The actions of Defendant Doe, and thereby the actions of Defendant United  
10 States, were a substantial factor in causing harm to Plaintiff as set forth above, and she  
11 suffered damages for which Plaintiff is entitled to monetary relief pursuant to the Federal  
12 Tort Claims Act, 28 U.S.C. § 2671 *et seq.*

### 13 **FIFTH CAUSE OF ACTION**

#### 14 **Fourth Amendment Unreasonable Force / Intrusion of Bodily Integrity (*Bivens*)** 15 **(against Defendant Doe)**

16 49. Plaintiff repeats and re-alleges each allegation contained in paragraphs 1  
17 through 48 of this Complaint.

18 50. As a result of the acts alleged above, Defendant CBP Officer Jane Doe  
19 ("Defendant Doe") used unreasonable, unjustified, and excessive force upon Plaintiff and  
20 intruded on Plaintiff's bodily integrity. This unreasonable and excessive use of force and  
21 intrusion on Plaintiff's bodily integrity constituted an unlawful search and seizure in  
22 violation of Plaintiff's constitutional rights as guaranteed by the Fourth Amendment to  
23 the United States Constitution. Violations of Plaintiff's Fourth Amendment rights by  
24 Defendant Doe give rise to a cause of action for damages against her in her individual  
25 capacity pursuant to *Bivens v. Six Unknown Agents of the Federal Bureau of Narcotics*,  
26 403 U.S. 388 (1971).

27 51. As a proximate result of the acts alleged above, Plaintiff was injured in mind  
28 and body, and sustained injuries and damages alleged above. Plaintiff is therefore entitled

1 to general and compensatory damages in an amount to be proven at trial.

2 52. In committing the acts alleged above, Defendant Doe acted maliciously  
3 and/or was guilty of a wanton and reckless disregard for the rights and safety of Plaintiff,  
4 and by reason thereof Plaintiff is entitled to punitive damages, awarded against Defendant  
5 Doe only, in an amount to be proven at trial.

6 53. Defendant Doe's intrusion on Plaintiff's bodily integrity was neither  
7 accidental nor of a *de minimis* nature. Rather, Defendant Doe engaged in the intentional  
8 and purposeful sexual physical predation of Plaintiff, in a manner that was gratuitously  
9 violent.

10 54. The above acts by Defendant Doe had no justification or excuse in law, and  
11 instead constitute a gross abuse of governmental authority and power, shock the  
12 conscience, are fundamentally unfair, arbitrary and oppressive, and are unjustifiable as a  
13 means of conducting any activity in which governmental officers may appropriately and  
14 legally undertake in the course of protecting persons or property, or ensuring civil order.

15 **PRAYER FOR RELIEF**

16 WHEREFORE, Plaintiff respectfully requests that this Court enter a judgment  
17 including:

- 18 a. General damages, special damages, and compensatory damages in an  
19 amount according to proof;
  - 20 b. Punitive damages according to proof against Defendant Doe only;
  - 21 c. Civil penalties as provided by law;
  - 22 d. Attorneys' fees and other allowable costs of suit under California Civ. Code  
23 § 52.1;
  - 24 e. Legal interest on all damages awards from the date of judicial demand until  
25 paid;
  - 26 f. And for such other and further relief as the Court may deem proper.
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Dated: April 4, 2022

Respectfully submitted,  
/s/ Michael R. Marrinan  
MICHAEL R. MARRINAN  
Attorney for Plaintiff

/s/ Joseph M. McMullen  
JOSEPH M. McMULLEN  
Attorney for Plaintiff

**DEMAND FOR JURY TRIAL & BENCH TRIAL**

Plaintiff respectfully demands a Jury Trial in this Court as to the *Bivens* cause of action against Defendant Doe only (Count 5) and a bench trial in this Court as to each FTCA cause of action against Defendant United States of America (Counts 1 through 4).

Respectfully submitted,  
/s/ Michael R. Marrinan  
MICHAEL R. MARRINAN  
Attorney for Plaintiff

/s/ Joseph M. McMullen  
JOSEPH M. McMULLEN  
Attorney for Plaintiff